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## Estate Tax Negotiations Continue in U.S. Senate

**Update:** Last week, the U.S. Senate fell short of the 60 votes needed to proceed to a vote on permanent repeal of the estate tax. The vote June 8 was 57-41. [Click here to see how your Senators voted.](#)

Please continue to be actively involved on this issue because Senate leaders have stated publicly they intend to address the issue again. Behind the scenes, a small group of Senators is trying to craft a possible compromise bill with the intention of bringing an estate tax "reform" proposal back to the Senate floor in the next week or two. Senate Republican leaders have outlined four ways that could happen:

- Adding it to a pension bill (H.R.2830) conference report;
- Adding it to an immigration bill conference report;
- Creating a stand alone bill;
- Originating a new bill in the House of Representatives.

**NAIFA Position:** NAIFA supports reform over complete repeal of the estate tax, but cautions against "reform" proposals that would be tantamount to full repeal. NAIFA recommends the following elements be included in a reform proposal that could receive long term, politically sustainable support in Congress and with the public:

- An exempt amount of \$2.5 to \$3.5 million per individual
- A top tax rate of 35 percent to 45 percent
- Step-up in tax basis for transferred assets

Simply freezing the exempt amount and tax rates that are now scheduled to be in effect in 2009 (\$3.5 million per person; 45 percent rate) would do the job. This is estimated to reduce federal tax revenue by \$330 billion for the period 2012-2021 – 41 percent of the cost of full repeal. At an exempt amount level of \$3.5 million per individual, 99.7 percent of all estates in the United States would be exempt from the estate tax.

**Action Recommended:** In view of the ongoing effort to bring estate tax reform legislation before the U.S. Senate, NAIFA leaders recommend that NAIFA members continue to give input to their Senators. To do that, just follow these steps:

- 1.) Click here to see how your Senators voted on the Motion to Proceed. [A "nay" vote reflected NAIFA's position.](#)
- 2.) Regardless how your Senators voted, please take five minutes to deliver a message to your Senators by going to [www.capwiz.net/naifa](http://www.capwiz.net/naifa) and logging onto NAIFA's fast and simple to use Legislative Action Center.
- 3.) NAIFA leaders ask that you to send an email letter to your Senators. **Thank Senators who voted "nay"** on the Motion to Proceed. Urge them and all other Senators to now support fiscally responsible and sustainable reform proposals that exempt 99.7 percent of estates from the estate tax. [A pre-drafted letter](#) is provided for your convenience. All you have to do is supply your contact information and zip code and then press send. (You can edit the letter if you choose or write your own).

**NAIFA Leaders Thank You:** NAIFA members have had a major impact on this issue to date. NAIFA leaders urge you to stay involved.

## NAIC Addresses Important Issues at Summer Meeting

The National Association of Insurance Commissioners (NAIC) held its Summer National meeting in Washington, D.C. June 9-13. The following matters of interest to NAIFA members were addressed at the meeting.

### Life Insurance Awareness Month Resolution

In recognition of the need for greater awareness of life insurance and its benefits, the NAIC Life Insurance and Annuities (A) Committee adopted a resolution in support of recognizing September 2006 as Life Insurance Awareness Month.

NAIFA Senior Vice President Bill Anderson presented the resolution on behalf of NAIFA. The A Committee adopted the resolution by unanimous vote and hopes for adoption by the full NAIC. The NAIC is on record as strongly supporting efforts to make consumers more aware of their life insurance needs by encouraging them to seek professional advice and take the actions necessary to achieve the financial security of their loved ones. [Download resolution here.](#)

### New Exemption for Replacement Model

The NAIC adopted an amendment to the NAIC's Model Life Insurance Replacement Regulation that adds inter-affiliate term conversions to the list of replacements exempt from the regulation.

Intra-company conversions are currently exempted from the Model and the NAIC felt that streamlined term conversions within a corporate family make sense for consumers, insurers and producers alike. The NAIC feels the consumer will retain the same financial and other protections in inter-affiliate conversions as they do in an internal, intra-company conversion. Proponents contended that by treating an inter-affiliate term conversion as the equivalent of an internal conversion, rather than as a standard replacement, the additional – often confusing paperwork – would be removed from the process.

NAIFA and the ACLI support this action and will be working together with NAIFA's state associations to support this amendment if considered by state legislators or regulators.

### **Suitability Protections for All Annuity Sales**

The NAIC voted to support application of the NAIC Senior Protection in Annuity Transactions Model Law to annuity purchasers of all ages.

As reported in the March 1, 2006 *Frontline*, NAIFA and the ACLI support this expansion of protection for annuity purchasers.

The NAIC's action will require that recommendations that result in annuity sales be suitable considering the customer's financial situation. The model law will also impose a requirement that some system be utilized to supervise these recommendations.

NAIFA will be working with the ACLI and our state associations to facilitate adoption of these standards in the state legislatures.

### **Stranger-Owned Life Insurance (SOLI)**

The Life Insurance and Annuities (A) Committee began the process of considering and developing amendments to the NAIC Viatical Settlements Model Act designed to address transactions commonly referred to as stranger-owned life insurance, or SOLI. These transactions typically involve the use of non-recourse premium financing to assist elderly individuals purchase a life insurance policy with the up-front intent of selling the policy to a life settlement provider following the end of the policy's contestability period. NAIFA has serious concerns about these types of transactions, since they seek to turn life insurance policies into investment vehicles and violate the spirit, if not the letter, of well established state insurable interest laws.

At its meeting, the A Committee heard brief presentations on four proposals for amending the viatical model to address SOLI. One of the presentations discussed the proposed amendments drafted jointly by NAIFA, AALU, the ACLI and NAILBA. Our proposal is designed to put a stop to ill-advised SOLI transactions while not sweeping in under its coverage legitimate life insurance transactions. The A Committee will continue work on this project at upcoming meetings.

### **Agent Training to Sell Long-Term Care Insurance**

In response to regulator perceptions of abuses in the marketing of long-term care insurance, roughly two years ago the NAIC's Long-Term Care Working Group began drafting amendments to the NAIC LTC Model Act, which would require agents to receive LTC-specific training before they could sell LTC insurance. NAIFA and AHIA worked closely with the NAIC on this project, and we were able to achieve our two main goals—first, that any LTC specific training would be a part of, and not in addition to, the overall CE requirement, and second, that no separate license would be required to sell LTCI. (The final language agreed to by the working group would require agents who want to sell LTCI to have 8 hours of LTCI specific CE during each two year period.)

The recent enactment of the federal Deficit Reduction Act (DRA) included provisions designed to encourage the use of LTC partnership programs by the states. Partnership programs tie together private LTCI and a state's Medicaid program, and enable persons who purchase a

partnership policy to protect a certain amount of their assets by receiving benefits through a state's Medicaid program without having to deplete all of their assets. Language in the DRA states that persons selling partnership policies must "receive training and demonstrate evidence of an understanding of such policies...." In light of this, the Working Group is now considering further revisions to the LTC model act's agent training requirements to conform to the provisions of the DRA. NAIFA and AHIA have submitted a proposal addressing these issues for consideration by the Working Group, and will continue to participate in the Working Group's activities on this issue.

### **The Marketing of Fraudulent Health Plans**

Double-digit increases in health insurance premiums in recent years have led to a rise in the number of fraudulent health plans operating in the states, as consumers search for lower cost options for health coverage. The NAIC has been actively trying to protect consumers from such schemes, which often take in premiums, pay claims for a brief period and then disappear, leaving consumers liable for their health care costs.

The Anti-Fraud Task Force is in the process of drafting the Unauthorized Transaction of Insurance Criminal Model Act, which would provide that an agent who represents an unauthorized health plan is guilty of a felony and subject to imprisonment. While NAIFA and AHIA share the NAIC's goal of protecting consumers from these schemes, we are concerned that the draft model act, in its current form, would impose criminal liability on agents regardless of whether they acted with an intent to defraud or knew the health plan was unauthorized. We have submitted written comments and testified before the Task Force on this issue several times during previous NAIC meetings. Our efforts appear to be paying off, as the Working Group that is developing this model indicated during its meeting on June 11 that it was inclined to agree to our request to include a "knowingly" or "should have known" standard in the model. This standard would exclude from coverage under the model agents who did not know that a plan they represented was fraudulent or unauthorized. We will continue to monitor further developments with respect to this model act.

### **Interstate Compact Commission Holds First Meeting**

Bearing the motto "States, Strength & Speed Aligned" the Interstate Insurance Product Regulation Compact Commission held its first meeting in conjunction with the National Association of Insurance Commissioner's summer national conference this week.

The compact is the NAIC's leading initiative to reform state insurance regulation by improving the speed-to-market conditions for life, annuity, long-term care and disability income products. The compact would enable those products to reach consumers faster by allowing companies to file new products in one place for approval in every state that enacts the compact law. NAIFA strongly supports the compact, and NAIFA state associations around the country have pressed for its adoption, so that new products satisfying uniform standards will be available sooner for agents to offer to their clients.

In recognition of your association's hard work in supporting the compact, NAIC President and Maine Insurance Superintendent Alessandro Iuppa thanked NAIFA at the start of the Commission's historic first meeting for our vital assistance in making the interstate compact a reality.

The compact achieved a major milestone this year when it was adopted by 27 states, one more state than was needed for the compact to become operational and representing over 40% of the national premium volume for the covered products. (The current list of compacting states includes AK, CO, GA, HI, ID, IN, IA, KS, KY, ME, MD, MN, NE, NH, NC, OH, OK, PA, PR, RI, TX, UT, VT, VA, WA, WV and WY).

With participation from a majority of states, the compact Commission's first organizational meeting began the process of creating an operational entity ready to accept insurance product filings by early 2007. This process will be overseen by an interim management committee, to be chaired by Pennsylvania Insurance Commissioner Diane Koken, and comprised of the insurance commissioners from Texas, Pennsylvania, Ohio, North Carolina, Georgia, Virginia, Minnesota, Indiana, West Virginia, Washington, Oklahoma and Vermont. Among the tasks to be addressed in the next few months is the adoption of proposed bylaws, operating rules and product standards, as well as the hiring of staff, the development of a budget and the implementation of an electronic platform to receive product filings. The Commission's office will be located in the D.C. area.

To offer assistance to the compact during this critical early stage, the Commission also created interim advisory committees for industry, consumer and legislative representatives. NAIFA will seek a seat on the interim industry advisory committee to ensure that the agent community helps the Commission develop fair and streamlined operations and appropriate product standards and review procedures.

## **Senate Banking Committee Approves State Law Protections for Military Base Insurance Sales**

On June 14, the Senate Banking Committee passed NAIFA-supported S.418, the *Military Personnel Financial Services Protection Act*, sponsored by Senators Mike Enzi (R-WY) and Hillary Clinton (D-NY). The bill would clarify regulatory jurisdiction over the sale of life insurance on military bases, ban the sale of contractual mutual funds, and require that military personnel be informed about the coverage offered by the federal government prior to discussing the sale of private insurance. S. 418 directs the states to develop standards to protect members of the armed services from unfair and deceptive sales practices and cooperate with the Department of Defense in reporting disciplined agents.

The legislation stems from a series of New York Times articles published in 2004 that described sales practices that could be classified as unfair and deceptive under state law although state laws have never been enforced on military installations. The Department of Defense maintains its own set of sales standards, but the DoD has struggled with uniform enforcement over many years.

NAIFA immediately offered assistance to the DoD and the House Financial Services Committee to craft legislation that struck the right balance in curbing potential abuses while still allowing NAIFA members to sell life insurance and other products to members of the armed services. The original bill, sponsored by then Rep. Max Burns (R-GA), passed the full House in 2004 but was not taken up by the Senate before the end of the 108th Congress. At the beginning of the 109th Congress, the bill was reintroduced by Rep. Geoff Davis (R-KY); and in June 2005, the U.S. House of Representatives overwhelmingly approved H.R. 458.

An unsung hero in this effort was former NAIFA member Rep. Jerry Lewis (R CA). Rep. Lewis, as then Chairman of the House Appropriations subcommittee on Defense, encouraged the DoD to seek advice from NAIFA in crafting coordinated state/DoD marketing rules.

Since House passage, NAIFA worked closely with members of the Senate Banking Committee to craft S.418. The Committee's passage of S.418 marks the first time the Senate has taken legislative action on this issue. The House and Senate bills, both called the *Military Personnel Financial Services Protection Act*, are similar but not identical. NAIFA is lobbying the full Senate to move quickly to pass S. 418. Following Senate passage, NAIFA would work with House and Senate staff to resolve the differences in the two bills so that a final *Military Personnel Financial Services Protection* bill could be enacted into law this year.